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May 23, 2018

VIA ECF AND ELECTRONIC MAIL

All Counsel of Record

**Re: *Johnson & Johnson Talcum Powder Products, Marketing, Sales Practices and
Products Liability Litigation***
Case No. 3:16-md-02738-FLW-LHG

Dear Counsel,

This letter opinion supplements my letter order on the discovery disputes raised in the parties' letters of May 11 and May 18, 2018. I endeavored to resolve the disputes without undue delay, and I did not request or expect a reply. Thus, my order was filed this afternoon before receipt of Plaintiffs' reply.

Having read Plaintiffs' reply letter, it appears that the only area that needs further treatment is the discussion about lost or missing samples. Plaintiffs seem to want to fashion a spoliation claim from the fact that samples may have gone missing. There is no basis to argue that because a quantity of talc is missing, were it available for testing it might reveal evidence of causation. Hence, the argument that samples are missing proves that the Johnson & Johnson Defendants knew of a problem and had it disposed of is rank speculation. I do not see any reason to change my order on this topic. I find the parties' efforts are best directed to the exhaustive testing of the samples that they have, rather than debate what might have been shown in samples that they do not have.

May 23, 2018

Page 2

Otherwise, please confirm the areas of agreement that the parties have reached. I will file an amended order consistent with my findings after hearing from the parties.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Pisano", with a stylized flourish at the end.

Joel A. Pisano

cc: Honorable Freda L. Wolfson (via ECF and First-Class Mail)
Honorable Lois H. Goodman (via ECF and First-Class Mail)